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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of: Scott Saunders et al.

Application No.: 10/776,989

Filed: February 11, 2001

For: Construction and Use of Synthetic Constructs
Encoding Syndecan

Attorney Docket No.: 101353-232

Group Art Unit: 1648

Examiner: Lucas, Zachariah

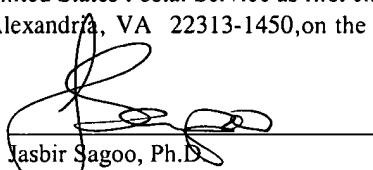
Confirmation No. 5871

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March 7, 2005
Date of Signature and of Mail Deposit

By:


Jasbir Sagoo, Ph.D.
Reg. No. 51,177

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO RESTRICTION REQUIREMENT

Dear Sir:

In response to the Office Action mailed from the Patent Office on February 9, 2004, Applicant elects, with traverse, the Group I invention (claims 1-4, 15 and 16), drawn to a fusion protein comprising the heparan sulfate binding site in the syndecan protein sequence of residues 20-41 of SEQ ID NO:9 (or conservative substitutions thereof) and a second polypeptide portion. Additionally, Applicant elects, with traverse, the species of granulocyte-macrophage colony stimulating factor (GMCSF) from claim 4.

Applicant respectfully traverses the restriction and election requirement as improper and reconsideration and withdrawal is requested insofar as a single search should suffice for examination of all of the pending claims. The underlying inventive concept in all the claims is that of a fusion protein with a first polypeptide having a heparan sulphate attachment sequence with a

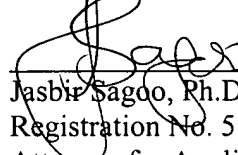
glycosaminoglycan chain, and a second polypeptide with an amino acid sequence from a protein that does not have the glycosaminoglycan chain. In this fusion protein, the glycosaminoglycan chain of the first polypeptide modifies the function of the second polypeptide. Thus, the glycosaminoglycan chain of the first polypeptide modifies the function of the second polypeptide with an amino acid sequence from any protein irrelevant of the different types of proteins.

Furthermore, with regard to the species election, granulocyte-macrophage colony stimulating factor (GMCSF) is a member of a family of growth factors with similar functions. It is Applicant's understanding that the species election is for searching purposes only and upon a finding of allowability of the elected species, the remaining species will also be searched. Also that under 35 U.S.C. §§121, an election of a single species for prosecution on the merits is required, to which the claims will be restricted if no generic claim is finally held allowable. Applicant further understands that upon the allowance of a generic claim, they will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 C.F.R. §§ 1.141 et seq.

Substantive examination and allowance are earnestly requested. In order to expedite prosecution, the Examiner is urged to telephone the undersigned Attorney for Applicant at the telephone number indicated below, if there are any remaining issues.

Respectfully submitted,

NUTTER, MCCLENNEN & FISH, LLP



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Dated: March 7, 2005